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Chapter 1: INTRODUCTION

1.1 SUMMARY

The New York City Department of Health and Mental Hygiene's (DOHMH) Fiscal Guidelines Manual is a reference document provided to assist contractors in properly carrying out the agency's fiscal duties and fulfilling their compliance responsibilities. The manual provides an overview of the major financial management practices of the agency and describes the policies, procedures, forms and other tools which are required for effective operations.

The policies and procedures followed by the DOHMH are in compliance with federal, State and City regulations. The requirements outlined in the DOHMH Fiscal Manual must be adhered to by all contractors.

1.2 WHO TO CALL WITH QUESTIONS

Contact your Program Officer

1.3 CONDUCTING BUSINESS WITH DOHMH

The Payee Information Portal (PIP) of the City of New York

As of **July 1st, 2016**, email is now the default means of communication for City agencies' Invitations for Bids (IFBs), Requests for Proposals (RFPs) and notices of availability. Notifications by paper mail, fax, hand delivery or otherwise are only available upon request to the contracting agency. Agencies will use the ordering email addresses that have been provided by vendors in the [Payee Information Portal \(PIP\)](#) for all upcoming solicitations or notifications.

Your “ordering email address” will be used by the City for notification and solicitation purposes. To ensure that the City has your up-to-date email address, it is advised that you log into PIP and review this information.

- For a step-by-step guide on how to update your ordering email address in PIP and to confirm that it is the default address, please reference the [Default Ordering Address in PIP Guide](#).
- If your organization does not have a PIP account, please refer to the [PIP Activation Guide](#) for information on how to create one.
- For any additional information on PIP Account maintenance, please consult the [PIP Account Tutorial](#).

Establishing a **PIP** account for your business allows you to view your financial transactions with the City and enroll in the citywide bidders lists based on commodity code.

If you have any difficulty creating or updating your account in **PIP**, please reach out to DOHMH's ACCO Help Desk at ACCOHelpDesk@health.nyc.gov. If you need further

assistance, please contact the Mayor's Office of Contract Services (MOCS) at MOCSOutreach@cityhall.nyc.gov.

HHS Accelerator

To respond to Requests for Proposals (RFPs) for human/client services, vendors must first complete and submit an electronic prequalification application using the NYC Health and Human Services (HHS) Accelerator System. The HHS Accelerator system is a web-based system maintained by the City of New York that is used by its human services agencies to manage procurement.

Important information about the HHS Accelerator procurement method:

- Prequalification applications are required every three years
- Documents related to annual corporate filings must be submitted on an annual basis to remain eligible to compete in RFPs
- Prequalification applications will be reviewed to validate
- Approved organizations will be eligible to compete in RFPs and can submit electronic proposals through the system.

RFPs procured via the HHS Accelerator procurement method are listed on the [NYC Procurement Roadmap](#). All current and prospective vendors should frequently review information listed on the roadmap to take full advantage of upcoming contracting opportunities.

For more information about HHS Accelerator, including background materials, user guides and video tutorials, please visit nyc.gov/hhsaccelerator.

Vendor Exchange System (VENDEX)

The New York City Administrative Code requires that the City maintain a computerized data system containing information for every city contract. This includes very specific information about every prospective vendor for awards over \$100,000, and for vendors (including subcontractors) doing more than \$100,000 in cumulative annual business with the City. The majority of the vendor information placed on the VENDEX system comes from the VENDEX questionnaires.

The purpose of VENDEX questionnaires is for vendors to provide a wide array of information regarding the vendor's ownership, financial capacity, business structure, affiliations and involvement in government investigations. The VENDEX questionnaire is the vendor's primary opportunity to provide accurate and complete information about its operations. VENDEX is the primary source used by agencies in making a responsibility determination.

To learn more about VENDEX Filings or to download the VENDEX Guide and forms, visit nyc.gov/vendex

1.4 CONTRACT PAYMENTS

The Contract Payment Unit processes payments for all authorized payment claims for services or goods based on the legal execution of contracts in accordance with NYC Comptroller's Directives, PPB rules and NYC Prompt payment rules. Services and/or goods paid for by the unit include, but are not limited to, Consultants, CPA's, intra-city services and Capital projects.

The Contract Payment Unit receives and processes payments for claims from all areas of the department, which consists of the various divisions of the Department of Health (DOH), and the division of Mental Hygiene (MH).

The Contract Payment Unit compiles and researches payment and journal entry information to assist representatives of the DOHMH and vendors.

Chapter 2 – CONTRACT MANAGEMENT

2.1 SCOPE OF SERVICES

The registered contract between the DOHMH and a contractor contains the scope of services, budget and terms and conditions that govern the contractor's work. Contracted services must be provided in accordance with generally accepted standards of professional quality and care and in compliance with applicable standards of care of the New York State Department of Health, the DOHMH and all other New York State and New York City social services regulatory agencies recognized or in effect during the term of the agreement.

2.2 TERM OF CONTRACT

Client service contracts are awarded for a term that is appropriate for the services to be performed, taking into consideration the nature of the services themselves, as well as other factors relevant to the provision of services. All client service contracts may be awarded for at least an initial term, including all renewals, of up to three years. The term of a client services contract should otherwise be guided by the provisions set forth in Section 2-04 (e) of the NYC Procurement Policy Board Rules.

2.3 RENEWALS

The Health Department, in its sole discretion, may renew an agreement for the period of time expressly stipulated in the contract. All renewals shall be on substantially the same terms and conditions contained in the agreement. Any renewal will not be effective unless and until the renewal is registered pursuant to New York City Charter §328. The Health Department shall renew an agreement by giving written notice to the Contractor prior to the expiration date of the agreement and prior to the expiration date of any renewal option. The Health Department will endeavor to give the Contractor notice 90 days prior to renewal.

2.4 FUTURE FUNDING

If the period of performance contemplated by an agreement involves performance by the Contractor in a subsequent City fiscal year(s), funding for the agreement will be subject to the appropriation of funds for such subsequent City fiscal year(s). The Health Department is under no obligation to continue its funding after the expiration of the term of the agreement.

2.5 DUPLICATION OF FUNDING

Contractor represents and warrants that the work to be performed under the agreement shall in no way duplicate any work performed under other agreements between the City and Contractor, nor under any agreement with any other governmental funding source, except upon the express written permission of the Health Department. Costs attributable to the program and not paid for by the City are not duplication (e.g., program enhancements, unreimbursed portions of staff salaries) but are subject to the cost allocation provisions set forth below. Noncompliance with this Section shall constitute a material breach of the Agreement.

2.6 VENDEX AND CONTRACT MANAGEMENT FEES

Pursuant to Procurement Policy Board Rule 2-08(f)(2), contractors may be charged a fee for the administration of the VENDEX system, including the Vendor Name Check process, in the amount of \$175 for contracts of an estimated value of less than or equal to \$1,000,000 and \$350 for contracts of an estimated value greater than \$1,000,000. Such fee will be charged against payments made to the vendor on the contract. A prime vendor is responsible for the payment of fees for any subcontractors of the vendor for which Vendor Name Check requests are made. The prime vendor is not prohibited from recovering from its subcontractors the amount of such fees to those subcontractors.

2.7 COST ALLOCATION PLAN

Contractor shall accurately and equitably allocate costs which are attributable to the operation of two (2) or more programs among such programs, or which are costs attributable to two (2) or more governmental funding sources, by a method which represents the benefit of such costs to each program or funding source. The Contractor shall upon commencement of services or as soon thereafter as practicable develop and deliver to the Health Department a cost allocation plan for the Health Department's approval.

No cost allocation plan shall be approved by the Health Department unless such a plan:

1. Relates to allowable costs as defined in applicable laws, regulations and policies of the federal, State and City governments;
2. Relates to costs necessary for the Contractor's performance pursuant to the agreement;
3. Fairly and accurately reflects the actual allocable share of such cost with respect to the agreement;

4. Is developed in accordance with generally accepted accounting principles; and
5. Is accompanied by such supporting documentation as the Health Department deems necessary to evaluate the plan.

NOTE: A cost allocation plan approved by the Health Department may be modified with the written approval of the Health Department.

Notwithstanding any provision in this Section to the contrary, the Health Department further reserves the right to withhold any payments to the Contractor for allocated costs in the event that the Health Department determines that the cost allocation plan is unsatisfactory in whole or in part, or determines that such allocated costs have been incorrectly determined, are not allowable, or are not properly allocable pursuant to the agreement and or approved cost allocation plan.

2.8 UNALLOCATED FUNDS

“Unallocated funds” is a line item in the NYC Health and Human Service (HHS) Accelerator system, which manages budgets for the City Health and Human Services contracts. Funds in this line item, made available to the Department, cannot be spent by the Contractor unless it is allocated to another line in the budget through a budget modification that is pre-authorized by the Department. The funds in this line are to be used solely to cover: employee prevailing wage increases; State or City funded Cost of Living Adjustment increases (COLA); mental health bed rate increases, increases in administrative cost - indirect cost; and increases in services where the Contractor provides substantially the same services. The City is under no obligation to spend any of the unallocated funds, which may remain unallocated through-out the term of this contract.

Chapter 3: FISCAL PROCEDURES

3.1 PROMPT PAYMENT

It is the policy of the City of New York to process contract payments efficiently and expeditiously so as to assure payment in a timely manner to firms and organizations that do business with the City (NYC’s Procurement Policy Board Section 4-06). The period available to an agency to make a timely payment of an invoice without incurring an interest penalty shall begin on the invoice received or accepted date. The required payment date shall be 30 days or in the case of contract changes, 60 days.

When payments are made after the required payment date, interest shall be paid to the vendor based on the invoice received or accepted date. Interest shall be computed at the maximum amount allowed by law, or such lower uniform rate set jointly by the Comptroller and Office of Management and Budget (OMB). Such interest rate shall not apply to contracts where, as part of the contract obligation, the City is required to pay an interest rate other than the rate determined by the Comptroller and OMB.

For a list of payments that are ineligible for payment or for more information on prompt

payment, refer to the Procurement Policy Board rules.

3.2 ACCOUNTS

Contractor shall establish and maintain one (1) or more separate accounts for the funds obtained from or through the City of New York related to this and all other agreements with the City, and shall maintain records for such account to track and clearly identify the funds obligated through this Agreement. Contractor shall notify the Health Department of the name, locations and account numbers of all bank accounts in which any funds pursuant to the agreement are maintained, and of any change in the name, location or account numbers of such accounts within five (5) days of such establishment or change. Such bank shall have a branch located in New York City unless otherwise approved by the Health Department.

Contractor shall notify the Health Department of the names, titles and business addresses of such persons authorized by the Contractor to receive, handle or disburse monies under the agreement, including the company name and company address where such persons are not employees of the Contractor. Such notification must be in writing and furnished to the Health Department within five (5) days from the execution of an agreement, and within five (5) days from any subsequent change or substitution of authorized signatories.

3.3 PAYMENT ADVANCES

The amount of any advance to be paid to Contractor shall be made in accordance with the contract between the Health Department and the contractor and shall be determined by the Health Department in accordance with its Fiscal Manual and any applicable Comptroller directives. The funds shall be used exclusively for the payment of expenditures and obligations authorized by and properly incurred pursuant to the Budget.

3.4 FINANCIAL RECORD, REPORTING AND INVOICING

Contractor shall submit financial reports and invoices to the Health Department in accordance with the terms of the Fiscal Manual. In addition to financial reports and invoices, all Not-for-profit contractors shall also submit line item budgets for their salary allocation to the Health Department on an annual basis.

Any supporting documents required to be maintained by the agreement or the Fiscal Manual shall be made available for inspection and reproduction by the Health Department, the City Comptroller and such other persons as authorized by the Health Department, including the Inspector General for the Health Department and the Department of Investigation. Contractor acknowledges that repeated failure to submit required financial reports within the time limits prescribed may result in termination of this Agreement.

3.5 INVOICING PROCESS

Contractors should submit invoices to the agency's invoice intake at invoiceintake@health.nyc.gov

The submitted invoices are reviewed to ensure compliance with their respective contract terms according to the guidelines set forth below.

Consultant contract:

- Contractor invoice describes the work that has been done and the period worked, hourly rate and the number of hours worked.
- Time sheet serves as a backup documentation for the invoice signed by the contractor and the supervisor.

Unit Cost contract:

- The invoice specifies the description of each item purchased with item code, quantity and price for each item and the total for each kind of item in the budget line.
- An invoice from the contractor to specify each item purchased with the item code, quantity, rate and total amount to be paid.

Line Item contract:

- The invoice needs to state the line item description as is stated in Annex B of the contract and the amount being invoiced for that line item.
- Backup documentations such as copies of cancelled checks, payroll reports for personal services, invoice, sub-invoice, delivery report with delivery date and receipts for each items purchased and all other supportive documentation.

Deliverable contract:

- The contract has to specify the kind of deliverable for each item or service to follow a specific time frame for the deliverable to be completed.
- The invoice needs to state all of the deliverables with the time of completion, deliverable amounts and the allocation of the percentage of time spent on specific deliverable.
- Backup documentations to support the completion of the services in the deliverable like timesheets, payroll roster and list of people that has been served with the program with signatures along with date or period of service.

Milestone contract:

- The invoice has to specify the percentage of the milestone successfully served as described in Annex A of the contract.
- Budget tracking sheet for each item of personal service (PS) and other than personal service (OTPS) to be provided each time with each invoice whether monthly or quarterly.

3.6 LIMITATION ON USE OF FUNDS

Proper purposes

No funds obtained through an agreement shall be spent for any expense not incurred in accordance with the terms of the Agreement. All such funds shall be administered in accordance with the Fiscal Manual.

Real property

No funds obtained through an agreement shall be spent for the purchase of any interest in or improvement of real property, unless included in the Budget or otherwise authorized in writing by the Health Department.

Disallowed costs

Any cost found by the Health Department, the City or any auditing authority that examines the financial records of the Contractor to be improperly incurred, including but not limited to Improper Related Party Transactions, shall be subject to reimbursement to the City. Failure to make said reimbursement shall be grounds for termination of the Agreement.

The allowable cost of the related party/less –than-arms-length transaction is the **lower** of the related organization's/individual's actual cost or the fair market value(FMV) of providing the service or supply. For example, if a lease agreement is between two related entities, the lease agreement is considered a “less-than-arms-length” or “related party” lease and rental costs under “less-than-arms-length” leases are allowable only up to the amount that would have been allowed had the lessee own the property. The related organization's actual cost in operating the building used by the service provider may include depreciation, amortization, mortgage interest, property taxes, insurance, utilities and repairs and maintenance etc.

Bonuses and Raises

Article VIII, Section 1 of the New York State Constitution, regulates the use of public funds to private entities. It states, “No county, city, town, village or school district shall give or loan any money or property to or in aid of any individual, or private corporation or association, or private undertaking...” The primary beneficiary of the city spending must be the public and the payment of supplementary compensation is beyond the city’s contractual duty.

Therefore, no City funds obtained through this agreement shall be used for the purpose of giving bonuses or raises. If funds are used for this purpose, a contractor must disclose the bonus or raise to the Health Department within fifteen days of issuance. Failure to disclose shall be grounds for termination of the Agreement.

3.7 RECOUPMENT OF DISALLOWANCES, IMPROPERLY INCURRED FUNDS AND OVERPAYMENTS

The Health Department may, at its option, either require the Contractor to reimburse the Health Department or withhold for the purposes of set-off any monies due to Contractor under the agreement up to the amount of any disallowance or improperly incurred costs resulting from any audits of Contractor, the amount of any overpayment to Contractor with regard to the agreement or to any other agreement between the parties hereto, including any agreement(s) that commenced prior to the commencement date of the agreement, and/or amounts incurred on any Improper Related Party Transaction. Prior to

the imposition of withholding for the purposes of set-off, the Health Department will provide the Contractor with an opportunity to be heard upon at least 10 days prior written notice.

Failure to spend funds

In the event that Contractor fails to spend funds for any part of the Budget within the time indicated therein (i.e., the fiscal year unless otherwise indicated) or at the level of expenditures indicated therein, the Health Department reserves the right, in its discretion, to recoup any funds advanced and not spent. If Contractor fails to spend funds in the Budget, the Health Department reserves the discretion to reduce the Budget going forward to account for the expected future level of expenditures.

3.8 PROVISIONS APPLICABLE WHEN FISCAL AGENT DISBURSES FUNDS TO CONTRACTORS

Payment by Fiscal Agent

Where the Health Department has retained a Fiscal Agent to make payments to third parties on behalf of Contractor, then the Contractor is obligated to use the Fiscal Agent to make payment to third parties at the Health Department's direction, including for the purchase of such goods, supplies, services and/or equipment made by Contractor under this Agreement. Where the Health Department directs that Contractor utilize a Fiscal Agent, Contractor shall not pay any obligations on its own behalf except to the extent specifically allowed by the agreement and the Health Department's Fiscal Manual.

Payroll processing by Fiscal Agent

In the event that a Fiscal Agent is processing the Contractor's payroll, Contractor shall deliver to the Fiscal Agent signed and dated time and attendance records for each staff member and consultant to be paid under this Agreement, in the form required and delivered at the time required by the Fiscal Agent and the Health Department's Fiscal Manual. Subject to the Health Department's approval, the Fiscal Agent shall prepare the payroll checks and supporting materials based on the documents submitted.

Fiscal Agent documentation

Upon reasonable request and approval by the Health Department, Contractor shall have the right to inspect any fiscal documents relating to the agreement as may be maintained by a Fiscal Agent, if applicable. Contractor may request from the Health Department copies of any or all of the following documents relating to the funds to be provided hereunder, with said documents to be furnished by the Fiscal Agent, subject to the Health Department's approval, within a reasonable time of the request: monthly budget and expenditure reports, budgets and budget modifications, and audit reports, where available.

Chapter 4: PROCUREMENT REQUIREMENTS

4.1 PROCUREMENT RECORDS

Contractor shall retain proper and sufficient bills, vouchers, duplicate receipts and documentation for any payments, expenditures or refunds made to or received by Contractor in connection with this Agreement. Contractor may maintain a petty cash fund in accordance with the Fiscal Manual, however, no expenditures may be made from such fund for procurements valued in excess of \$1,000. Contractor shall make all procurement expenditures in excess of \$1,000 by check or credit card.

4.2 EXTENT OF COMPETITION REQUIRED

Contractor shall retain records which detail the method of procurement, the basis for selection or rejection of a contractor, consultant or supplier and the basis for the contract price. If federal or State laws require procurement methods other than those set forth herein, then Contractor shall also comply with such procurement methods.

Contractor must solicit and document at least three (3) written estimates for any payment made or obligation undertaken in connection with the agreement for any purchase of goods, supplies or services (including but not limited to consulting services) for amounts in excess of \$25,000. The monetary threshold applies to payments made or obligations undertaken in the course of a one (1) year period with respect to any one (1) person or entity. Payments made or obligations undertaken will not be artificially divided in order to avoid the requirements of this paragraph.

For any payment made or obligation undertaken in connection with the agreement for any purchase of goods, supplies or services (including but not limited to consulting services) for amounts between \$5,000 and \$25,000, Contractor shall conduct sufficient market research and/or competition to support its determination that the price of such purchased goods, supplies, services or equipment is reasonable. The monetary thresholds apply to payments made or obligations undertaken in the course of a one (1) year period with respect to any one (1) person or entity. Payments made or obligations undertaken will not be artificially divided in order to avoid the requirements of this paragraph.

The City has retained the services of a Group Purchasing Organization (GPO) to facilitate the purchase of supplies or other items for human service contractors. Contractors are directed to utilize the services of the GPO.

4.3 EQUIPMENT

If so directed by the Health Department, title to all equipment or other property purchased at a price in excess of \$5,000 with funds obtained through this Agreement shall be in the name of the City of New York. Contractor shall properly maintain and keep in good repair all equipment acquired with funds obtained through this Agreement. Contractor shall dispose of such equipment in the manner provided in the Fiscal Manual or as otherwise directed by the Health Department, and shall maintain detailed records concerning such dispositions. At the Health Department's request, Contractor must execute a UCC-1 to evidence the Health Department's interest in equipment purchased at a

price in excess of \$25,000 and to enable the Health Department to perfect that interest by filing or otherwise.

4.4 M/WBE SUPPLIERS

Contractor is encouraged to utilize businesses and individual proprietors listed on the NYC Online Directory of Certified MWBE Businesses, available at nyc.gov/sbs, as sources for its purchases of goods, supplies, services and equipment using funds obtained through this Agreement. Contractor is also encouraged to utilize businesses and individual proprietors owned and/or operated by people with disabilities as sources for its purchases of goods, supplies, services and equipment using funds obtained through this Agreement.

4.5 DISPUTE WITH SUPPLIERS

Contractor, without recourse to the City or the Health Department, shall be responsible for the settlement and satisfaction of all contractual obligations and administrative issues arising out of any procurement or leasing contracts paid with funds obtained through the agreement.

Chapter 5: BUDGETS

The program budget provides two major functions in contract management: Planning and Control.

5.1 PLANNING

The budget is the basic tool for allocating available resources in order to efficiently and effectively achieve program objectives. It summarizes the decisions made by the contract agency and the DOHMH regarding the staff to be employed and the other resources to be purchased in order to produce the services specified in the contract. The budget projects what funds will be used to deliver various groups of contracted services.

5.2 CONTROL

The budget is the basic guide for monitoring expenditures to insure compliance with the Contract. Agencies should monitor expenditures on a regular basis to insure that spending is in accordance with available contract funds. This includes monitoring spending in specific cost centers, such as Congregate Meals and Education/Recreation, and specific budget lines, to ensure that costs do not exceed the funds allocation. In cases where contractors exceed their DOHMH contracted budgets, the contractors must be ready to provide supporting documentation i.e. invoices and cancelled checks to prove that current Fiscal Year funds were not used to pay for prior year expenses.

Chapter 6: PROGRAM EVALUATION AND MONITORING

Sub-recipient versus Contractor

The DOHMH must make case-by-case determinations on whether the receiving party of program funds is receiving federal funds and if so, whether they are a sub-recipient or a contractor. Sub-recipients must be monitored according to procedures found in Uniform Guidance Section 200.331(d).

Monitoring Plan

The Health Department shall develop and implement a monitoring plan for each type of program and service to be provided by the Contractor. The monitoring plan shall include all services and contract deliverables to be provided by the Contractor and will specify clear and understandable standards for the Contractor's performance. The monitoring plan shall be consistent with contractual agreement and shall include a time frame for all management and oversight functions such as site visits, reporting and similar monitoring and evaluation events. The Contractor shall comply with and fulfill all requirements of the monitoring plan, including implementing remedies for programmatic, fiscal, operational or other deficiencies identified by the Health Department in a timely fashion. Where such remedies are not implemented in a timely fashion, expenditures associated with operations designated by the Health Department as deficient may be disallowed for payment in the sole discretion of the Health Department.

Evaluation Criteria

The Contractor's performance will be evaluated at least once each year based on its compliance with contractual agreement. The evaluation criteria include but are not limited to: timeliness of deliverables and reports, fiscal administration and accountability, and performance and overall quality of service.

MONITORING PROCEDURES

All contractors are required to cooperate fully with the Health Department regarding the monitoring of the services provided through department funding and are obligated to advise and consult with employees and/or officials of the Health Department.

Inspections

The Health Department, its employees, representatives and designees shall have the right at any time, given reasonable notice, to inspect the site where services are performed and to observe the services being performed by the Contractor. The Contractor shall render all assistance and cooperation to the Health Department, its employees, representatives and designees in making such inspections and shall assure the Health Department ready access to the Project Site and all medical, financial or other records and reports relating to the services provided hereunder. The Health Department shall

have the responsibility for determining contract compliance.

Program Reviews

The Health Department will conduct on-site program reviews to evaluate the Contractor and the delivery of the services as set forth in the scope of services. The Health Department may recommend any necessary corrective action to the Contractor to remedy problems and/or deficiencies found during such site visit(s). The Contractor shall have the opportunity to offer a revised recommendation and shall implement such recommendations agreed upon by the Health Department and the Contractor after discussion between the parties, no later than thirty days from receipt of such recommendations or agreement on revised recommendations. Such corrective action plan shall address remediation within specified time frames. In addition, the Contractor shall participate in meetings conducted by the Health Department to discuss the services being provided.

Work Report Format

The Contractor will establish and maintain reports in the manner specified in the contracted Scope of Services. The format of such report will be agreed upon between the parties within 30 days of the start of contractual agreement.

Final Expenditure Report

A Final Expenditure Report shall be due within 20 days of the expiration of the budget year which shall detail the financial operations of the Contractor under contractual agreement for such budget year. The report shall clearly and separately identify the financial operations of the Contractor and shall include the following:

- a. a description of how the report was prepared;
- b. an itemization, by budget category, of all actual expenses not previously presented in any monthly report, and any year-end accruals;
- c. a comparison of total expenditures against budgeted amounts for each budget category;
- d. a reconciliation of aggregate expenditures against cumulative amounts previously paid to the Contractor (including, without limitation, any Advances), and a computation of the balance due to or from the Contractor; and
- e. a calculation of the interest due the Health Department pursuant to the contractual agreement.

Chapter 7: LEGAL COMPLIANCE

Notwithstanding any other provision in contractual agreement, the Contractor remains responsible for ensuring that any contracted service complies with all pertinent provisions of federal, state or local statutes, rules and regulations, and that all necessary approvals there under have been obtained.

Confidentiality – Business Associates

As defined in 45 CFR §160.103, a Business Associate shall be the contractor or other person who is a party to an agreement and who may create, receive, maintain, transmit or access Protected Health Information on behalf of a covered entity pursuant to the agreement.

Business Associates agree to comply with all applicable New York State laws and any regulations promulgated thereunder governing the confidentiality of information created, received, maintained, transmitted or accessed by Business Associate, its Subcontractors or agents on behalf of Covered Entity, including but not limited to the following provisions, as applicable: New York Public Health Law §18 (Access to Patient Information) and Article 27-F (HIV and AIDS Related Information); New York Mental Hygiene Law §§22.05 and 33.13; New York Civil Rights Law §79-l; New York General Business Law §399-ddd (Confidentiality of Social Security Account Numbers), §399-h and §899-aa; and Chapter 5 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Federal Audit Requirements

If applicable, the Contractor shall fulfill the audit requirements outlined in Section 200.501 of the Uniform Guidance and shall provide such audit to the Health Department within 30 days after its receipt of the final audit by the Contractor from the preparing accountant.

Records to be Maintained

In addition to any other records required to be maintained and/or provided for inspection pursuant to the agreement, Contractor shall maintain and make available to the Health Department for inspection, upon reasonable request, the following documents: tax returns; audit reports; all programmatic records and accounts maintained in connection with the agreement, including program, research and other reports and publications prepared in connection with the Agreement; all financial books, records and accounts reflecting payments made by Contractor for petty cash expenditures in connection with this Agreement; all applicable licenses and permits; Board member lists and all minutes and attendance sheets (dated and signed) for meetings of the Board of Directors and any of its committees responsible for the oversight of the program(s) funded under this Agreement; certificate of incorporation and by-laws; all other contracts related to providing services under this Agreement, to which Contractor is a party and the contract terms coincide, in whole or in part, with the term of this Agreement; the Contractor's Conflict of Interest Policy, if applicable pursuant to Not-for-Profit Corporation Law section 715-a; the Contractor's Whistleblower Policy, if applicable pursuant to Not-for-Profit Corporation Law section 715-b; the documents concerning the Board's approval of a Related Party Transaction, if applicable pursuant to Not-for-Profit Corporation Law section 715; any Related Party's disclosure statement, if applicable pursuant to Not-for-Profit Corporation Law section 715-a(c); and any other records or materials reasonably requested at such reasonable times and places and as often as may be reasonably requested. Contractor shall permit the Health Department and its authorized representatives— including the Health Department's Inspector General, the Comptroller of the City of New York, the New York City Department of Investigation or their

designees, or other interested federal, State or City agency representatives—to attend all meetings of the Board of Directors and to be present at the program site(s) to observe the work and activities being performed in connection with this Agreement.

State Charities Registration and Audit Requirements

If the Contractor is required by New York State law to register with and make annual filings to the Charities Bureau of the New York State Office of the Attorney General, timely compliance with such requirements shall be deemed a material term of this

Agreement. Contractor shall make available to the Health Department all such filings, including any audit and/or financial report required to be submitted with such filings, within 30 days of receiving such final audit or financial report from its preparer, and in no event later than 10 days following the filing of such audit or financial report with the Charities Bureau.

Security and Emergency Plan

Prior to the commencement of services under this Agreement, Contractor shall adopt, implement and instruct staff regarding a written plan to provide for the safety and security of clients, participants, staff and the Contractor's facility, including procedures to follow during emergencies. Contractor shall maintain a current file of emergency contacts for each client and participant, which shall include the names, addresses, telephone numbers and locations where such contacts can be reached. A security plan applying to all of Contractor's operations rather than specifically to the City-funded operations shall be sufficient to comply with the terms of this requirement. The Contractor shall cooperate with the City during any emergency affecting the Contractor's services and/or facilities.

In the event that a State of Emergency (SOE) is declared by the Mayor of the City, the City may suspend Contractor's normal operations until further notice. No damages shall be assessed for suspension of normal services during this time. All other terms and conditions of the agreement shall remain in effect, except as modified by a contract amendment registered pursuant to Charter §328 or other appropriate contract action. The Contractor may, at the request of and in a manner determined by the Health Department, assist the Health Department in carrying out emergency procedures during a State of Emergency. Emergency procedures shall remain in effect until the Mayor has determined that the SOE has expired. In consideration thereof, the City agrees to indemnify the Contractor against all claims by third parties arising out of the actions of its employees during the SOE that are directed by the City and not otherwise required to be performed under this Agreement, except for those arising out of the employees' gross negligence or intentional misconduct.

Allegations of Abuse or Maltreatment

Contractor will notify the Health Department within 24 hours of promptly determining that reasonable cause exists to suspect that any of Contractor's administrators or staff, including both paid and volunteer, has abused, maltreated, neglected, assaulted or endangered the welfare of any program participant. In addition, if such reasonable cause is found, the Contractor shall take appropriate action to remove the person from the

proximity of program participants while the matter is being investigated by the Contractor. The term abuse shall mean the infliction of physical injury by other than accidental means which causes or creates a substantial risk of death, serious or protracted disfigurement, protracted impairment of physical or emotional health, or protracted loss or impairment of the function of any bodily organ. The term maltreatment shall mean (i) treatment that results in serious physical injury other than by accidental means, or (ii) neglect or failure to exercise a minimum degree of care that impairs, or places in imminent danger of being impaired, the physical, mental or emotional condition of a program participant. Contractor shall provide telephone notice to the Health Department within 24 hours of determining that reasonable cause exists, followed by a written report, to be delivered to the Health Department within three (3) business days. Compliance with this reporting requirement does not satisfy any other legally mandated reporting of abuse, such as to the New York State Central Registry (SCR).

Capacity Building and Oversight (CBO) Review for Not-for-Profit Contractors

If requested by the Health Department, the Contractor must complete the Mayor's Office of Contract Services (MOCS) Capacity Building and Oversight (CBO) Review process. As part of that process, the Contractor must submit specified documents to the CBO unit of MOCS, which then conducts an evaluation of the Contractor and its operations for compliance with the terms of its contracts, its own by-laws, internal fiscal controls, applicable laws and regulations and best practices in not-for-profit organization administration. The specified documents may include, but are not limited to: the Contractor's Internal Revenue Service ("IRS") determination of tax exemption, the most recent IRS Form 990 filing; the most recent audited financial statement (including the auditor's letter to the management); the functional budget for the current fiscal year in the format approved by the Board of Directors; an organizational chart identifying key staff by title; a copy of the most recently-approved Board Minutes; the by-laws of the corporation; a roster of the membership of the Board of Directors and a list of Board committees; the Contractor's current policies and procedures as adopted; and any other organizational documents, whether or not they are specifically required to be maintained pursuant to this contract or applicable laws and regulations. In the course of the CBO review process, MOCS may make recommendations to the Contractor, request the Contractor to take certain remedial actions and/or to implement certain policy changes. Any such recommendations, and the Contractor's responses thereto, will be provided to the Health Department for its consideration and any appropriate actions under this contract.